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5 **UNITED STATES DISTRICT COURT**

6 **DISTRICT OF NEVADA**

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8 BARBARA STUART ROBINSON,

9 vs.
10 Plaintiff,

11 CITY OF LAS VEGAS,

12 Defendant.

Case No. 2:22-cv-00174-APG-VCF

ORDER

13 **APPLICATION TO PROCEED *IN FORMA*
14 *PAUPERIS* (EFC NO. 1)**

15 Pro se plaintiff Barbara Stuart Robinson filed an application to proceed in forma pauperis (IFP).
16 ECF No. 1. I deny Robinson's IFP application without prejudice.

17 **DISCUSSION**

18 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of fees or
19 security thereof" if the plaintiff submits a financial affidavit that demonstrates the plaintiff "is unable to
20 pay such fees or give security therefor." The Ninth Circuit has recognized that "there is no formula set
21 forth by statute, regulation, or case law to determine when someone is poor enough to earn IFP status."
22 *Escobedo v. Applebees*, 787 F.3d 1226, 1235 (9th Cir. 2015). An applicant need not be destitute to
23 qualify for a waiver of costs and fees but he must demonstrate that because of his poverty he cannot pay
24 those costs and still provide himself with the necessities of life. *Adkins v. E.I DuPont de Nemours &*
25 *Co.*, 335 U.S. 331, 339 (1948). If the court determines that an individual's allegation of poverty is
untrue, "it shall dismiss the case." 28 U.S.C. § 1915(e)(2).

1 The applicant's affidavit must state the facts regarding the individual's poverty "with some
 2 particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981)
 3 (citation omitted). If an individual is unable or unwilling to verify his or her poverty, district courts have
 4 the discretion to make a factual inquiry into a plaintiff's financial status and to deny a request to proceed
 5 in forma pauperis. See, e.g., *Marin v. Hahn*, 271 Fed.Appx. 578 (9th Cir. 2008) (finding that the district
 6 court did not abuse its discretion by denying the plaintiff's request to proceed IFP because he "failed to
 7 verify his poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's
 8 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16cv00768 AJB (BLM), 2016 U.S. Dist.
 9 LEXIS 192145, at 1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient grounds in
 10 themselves for denying an in forma pauperis application. *Cf. Kennedy v. Huibregtse*, 831 F.3d 441, 443-
 11 44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on in forma
 12 pauperis application).

13 The District of Nevada has adopted three types of IFP applications: a "Prisoner Form" for
 14 incarcerated persons and a "Short Form" (AO 240) and "Long Form" (AO 239) for non-incarcerated
 15 persons. The Long Form requires more detailed information than the Short Form. The court typically
 16 does not order an applicant to submit the Long Form unless the Short Form is inadequate, or it appears
 17 that the plaintiff is concealing information about his income for determining whether the applicant
 18 qualifies for IFP status. When an applicant is specifically ordered to submit the Long Form, the correct
 19 form must be submitted, and the applicant must provide all the information requested in the Long Form
 20 so that the court is able to make a fact finding regarding the applicant's financial status. See e.g. *Greco v.*
 21 *NYE Cty. Dist. Jude Robert Lane*, No. 215CV01370MMDPAL, 2016 WL 7493981, at 3 (D. Nev. Nov.
 22 9, 2016), report and recommendation adopted sub nom. *Greco v. Lake*, No. 215CV001370MMDPAL,
 23 2016 WL 7493963 (D. Nev. Dec. 30, 2016).

1 Plaintiff Robinson submitted the Short Form IFP application. ECF No. 1. Under penalty of
2 perjury, plaintiff swears that she has no income, no property, and no money in the bank. *Id.* She states
3 that the questions about her housing, property, and bills are not applicable to her. *Id.* She does not
4 provide any information in her sworn application regarding how she lives with no money and no bills.
5 *Id.* She also lists her home address as a P.O. Box and she provides no explanation regarding how she
6 pays for the P.O. Box, considering that she swears she has no bills.

7 I find that it appears that plaintiff is concealing information about her household income and I
8 cannot determine whether the applicant qualifies for IFP status. I will give plaintiff one opportunity to
9 file a complete IFP application. I order that the plaintiff must complete the Long Form application. She
10 may not respond that any of questions are “not applicable” to her: she must provide an explanation for
11 each of the questions. Since she must complete the Long Form, plaintiff is required to provide
12 comprehensive information regarding her sources of income, employment history, bank accounts, assets,
13 monthly expenses, age, how she pays her bills (such as her P.O. Box), and her years of schooling,
14 among other things.

15 I deny plaintiff’s IFP application without prejudice. I give plaintiff 30 days to file an updated IFP
16 application. Plaintiff must fully answer all applicable questions and check all applicable boxes. Plaintiff
17 may alternatively pay the filing fee in full. Since I deny plaintiff’s IFP application, I do not screen her
18 complaint now.

19
20 ACCORDINGLY,

21 I ORDER that Robinson’s application to proceed in forma pauperis (ECF No. 1) is DENIED
22 without prejudice.

23 I FURTHER ORDER that Robinson has until Monday, March 14, 2022, to file an updated IFP
24 application using the Long Form or pay the filing fee as specified in this order. Failure to timely comply
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1 with this Order may result in case closure or a recommendation for dismissal with prejudice.
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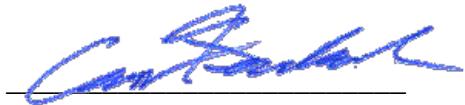
3 **NOTICE**
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5 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
6 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
7 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
8 may determine that an appeal has been waived due to the failure to file objections within the specified
9 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985).

10 This circuit has also held that (1) failure to file objections within the specified time and (2)
11 failure to properly address and brief the objectionable issues waives the right to appeal the District
12 Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d
13 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
14 Pursuant to LR IA 3-1, the plaintiff must immediately file written notification with the court of any
15 change of address. The notification must include proof of service upon each opposing party's attorney,
16 or upon the opposing party if the party is unrepresented by counsel. Failure to comply with this rule may
result in dismissal of the action.

17 IT IS SO ORDERED.
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19 DATED this 11th day of February 2022.
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23 CAM FERENBACH
24 UNITED STATES MAGISTRATE JUDGE
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